

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHAW FAMILY ARCHIVES, LTD., EDITH  
MARCUS and META STEVENS,

Plaintiffs,

-against-

CMG WORLDWIDE, INC., an Indiana Corporation:  
and MARILYN MONROE, LLC, a Delaware  
Limited Liability Company,

Defendants.

## DECLARATION OF CHRISTOPHER SERBAGI

I, Christopher Serbagi, an attorney duly licensed to practice law before this Court,  
declare the following facts under penalty of perjury:

1. I represent Shaw Family Archives, Ltd. and Bradford Licensing Associates (collectively referred to as the “Shaw Family”) in the above-captioned matter. I am fully familiar with the facts set forth herein.

2. Attached hereto as Exhibit A is a true and correct copy of Defendants' Complaint, filed on March 23, 2005.

3. Attached hereto as Exhibit B is a true and correct copy of Defendants' First Amended Complaint, filed on June 7, 2005.

4. Attached hereto as Exhibit C is a true and correct copy of Defendants' Second Amended Complaint, filed on June 21, 2005.

5. Attached hereto as Exhibit D is a true and correct copy of the Shaw Family's Complaint, filed on April 19, 2005.

6. Attached hereto as Exhibit E is a true and correct copy of the Shaw Family's First Amended Complaint, filed on May 10, 2005.

7. Attached hereto as Exhibit F is a true and correct copy of the Shaw Family's Second Amended Complaint, filed on August 8, 2007.

8. Attached hereto as Exhibit G is a true and correct copy of the Shaw Family's first demand for interrogatories, dated February 1, 2007.

9. Attached hereto as Exhibit H is a true and correct copy of Defendants' responses and objections to the Shaw Family's first set of interrogatories, dated March 19, 2007.

10. On May 2, 2007, the Honorable Colleen McMahon held that the Defendants do not own a right of publicity in Marilyn Monroe.

11. On May 14, 2007, the Honorable Margaret M. Morrow held that the Defendants do not own a right of publicity in Marilyn Monroe.

12. Attached hereto as Exhibit I is a true and correct copy of Defendants' Third Amended Complaint, filed on August 9, 2007.

13. Attached hereto as Exhibit J is a true and correct copy of the Shaw Family's third demand for interrogatories, dated November 1, 2007.

14. Attached hereto as Exhibit K is a true and correct copy of Defendants' responses and objections to the Shaw Family's third set of interrogatories, dated December 4, 2007.

15. Attached hereto as Exhibit L is a true and correct copy of the Honorable Colleen McMahon's Memo Endorsed Order, dated November 5, 2007.

16. Attached hereto as Exhibit M is a true and correct copy of the Honorable Colleen McMahon's Order, dated November 29, 2007.

17. Attached hereto as Exhibit N is a true and correct copy of excerpts of the deposition transcript of Defendant MMLLC's Rule 30(b)(6) witness, Mr. David Strasberg.

18. Attached hereto as Exhibit O is a true and correct copy of excerpts of the deposition transcript of Defendant CMG's Rule 30(b)(6) witness, Mr. Mark Roesler.

19. Attached hereto as Exhibit P is a true and correct copy of a letter-motion from defendant MMLLC to Magistrate Judge Mark D. Fox (without exhibits), dated December 7, 2007.

20. Attached hereto as Exhibit Q is a true and correct copy of a letter from the Shaw Family to Magistrate Judge Mark D. Fox (without exhibits), dated December 10, 2007.

21. On December 18, 2007, Defendants' deposed Shaw Family Archive, Ltd.'s 30(b)(6) witness, Melissa Stevens. At the conclusion of the deposition, Barry Slotnick of Loeb & Loeb, LLC. waived the deposition of Bradford Licensing Associates.

22. Attached hereto as Exhibit R is a true and correct copy of a letter-motion from defendant MMLLC to Magistrate Judge Mark D. Fox (without exhibits), dated December 20, 2007.

23. During a December 21, 2007 telephonic conference between the parties, Magistrate Judge Mark D. Fox instructed the parties to appear before him on December

26, 2007 regarding Defendants' December 7, 2007 and December 20, 2007 letter motions.

24. Attached hereto as Exhibit S is a true and correct copy of a letter from the Shaw Family to Magistrate Judge Mark D. Fox (without exhibits), dated December 25, 2007.

25. On December 26, 2007, the parties appeared before Judge Fox. MMLLC argued that it was entitled to: (i) copies of every document relating to Sam Shaw images of Marilyn Monroe and (ii) the additional 30(b)(6) deposition of Edith Marcus. Defendant MMLLC also requested that they have the opportunity to depose Ms. Edith Marcus regarding publications other than Rizzoli and Ballantine. MMLLC argued that the Shaw Family's standing to bring their declaratory judgment claim required them to own copyrights in their Marilyn Monroe images. On that basis, defendant MMLLC also requested the production of additional documents pursuant to its December 7, 2007 letter motion. Defendant MMLLC, however, failed to bring a copy of its 30(b)(6) notice and Judge Fox denied their request for additional documents and the deposition of Edith Marcus. Judge Fox told the Defendants that he was ordering Ms. Stevens to re-appear for an additional four hours of deposition only because she testified that she reviewed a copyright binder prior to her deposition. Judge Fox ordered that Defendants could not copy the binder.

26. On December 27, 2007, the Shaw Family produced its copyright binder for MMLLC's inspection. MMLLC deposed Ms. Stevens for approximately 3.5 hours.

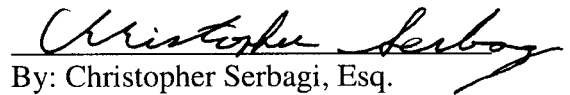
27. Attached hereto as Exhibit T is a true and correct copy of a letter motion from defendant MMLLC to Magistrate Judge Mark D. Fox, dated January 2, 2008.

28. Attached hereto as Exhibit U is a true and correct copy of a letter from the Shaw Family to Magistrate Judge Mark D. Fox (without exhibits), dated January 3, 2008.

29. On January 4, 2008, Magistrate Judge Mark D. Fox again denied MMLLC's January 2, 2008 letter-motion and request for the production of the entire Shaw Family copyright registration binder.

Dated: New York, New York  
January 8, 2008

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